



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,541	11/26/2003	Thomas Jack McKenzie		9742

7590 08/07/2006

Thomas J. McKenzie
6230 N Camino Pimeria Alta
Tucson, AZ 85718

EXAMINER

CECIL, TERRY K

ART UNIT PAPER NUMBER

1723

DATE MAILED: 08/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/723,541

Applicant(s)

MCKENZIE, THOMAS JACK

Examiner

Mr. Terry K. Cecil

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-16 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 7-16 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

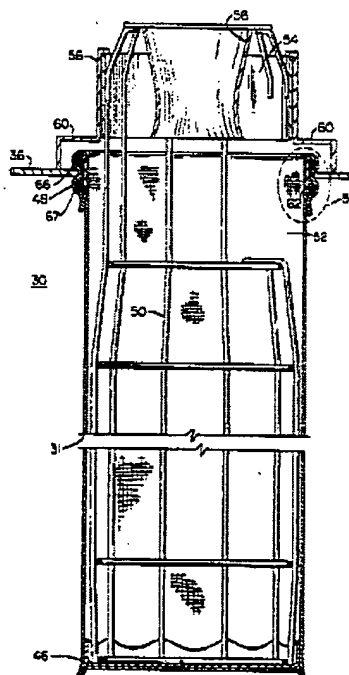
A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

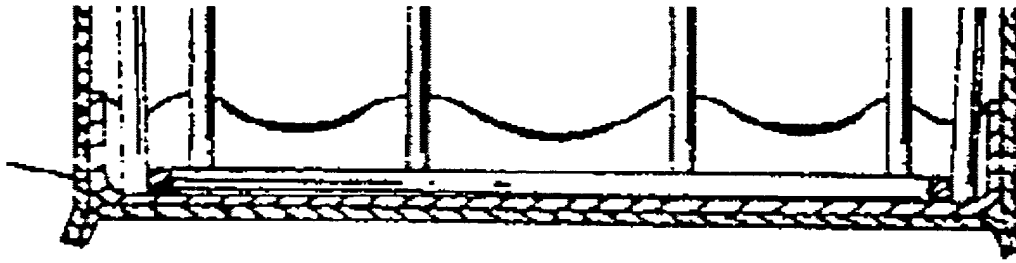
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

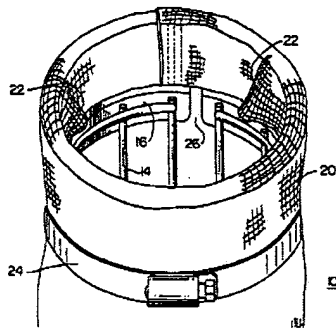
2. Claims 7 and 11-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Morton et al. (U.S. 5,308,369).



Morton teaches a filter holder include a first section (the lower portion) that includes ribs 50 and ribs transverse thereto and a second section (the upper portion above the uppermost horizontal rib) that includes “additional” ribs but is free from transverse ribs [as in claim 7]. As can be seen in the figure, both sections include portions that converge toward there respective ends [as in claims 11-13]. Both sections are of one piece [as in claim 16].

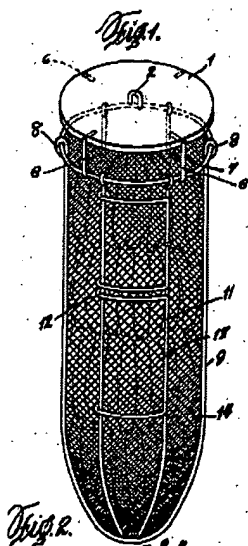


A closed bottom contacting the ribs is included that is considered to be the claimed pipe support [as in claim 14].



Morton also teaches an embodiment wherein the collar 16 of an upper end is expandable and contractible because of the slit 26 [as in claim 15].

3. Claims 7-8 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Moscrip (U.S. 1,007,477).

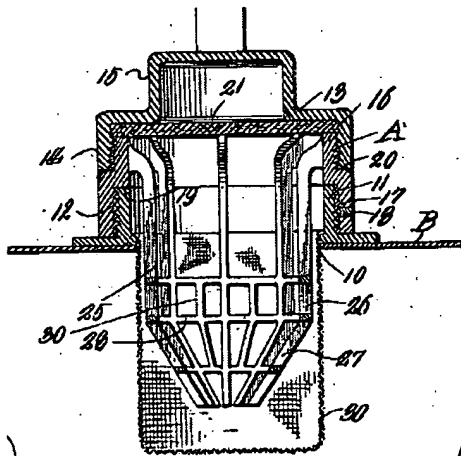


Moscrip teaches a filter holder (note that the phrase “for supporting a filter for fluids” of the preamble is considered to be an intended use of the device that fails to further limit the structure of the device beyond the elements listed in the body of the claim) including a first section (lower portion from “7” downward) that includes ribs 9 and ribs transverse thereto; and a second section (the portion above “7”) that is free of transverse ribs [as in claim 7]. The sections of wire are considered to be flexible and converge toward the

Art Unit: 1723

lower end [as in claims 8 and 11].

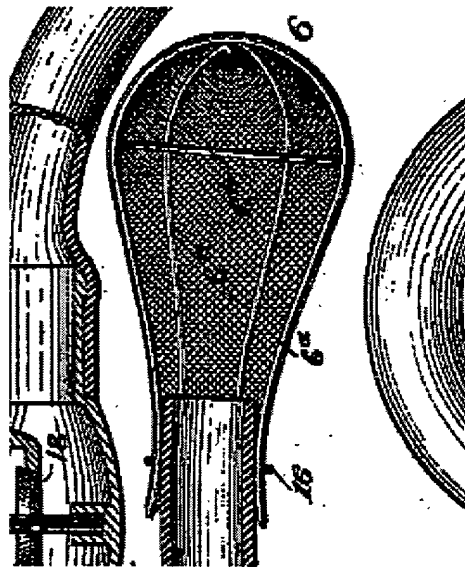
4. Claims 1, 11 and 16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Taylor (U.S. 1,512,065). Once again, it is pointed out that the phrase “for supporting a filter for fluids” is considered to be an intended use of the device that fails to further limit the structure of



the device.

Art Unit: 1723

5. Claims 7, 11-13 and 16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Siersdorfer (U.S. 0,407,971). Each portion of 6^b between two adjacent ribs 6a is considered to be a transverse rib such that a plurality of ribs is taught (there is no requirement in the claims that each rib must extend around every first rib).



Claim Rejections - 35 USC § 103

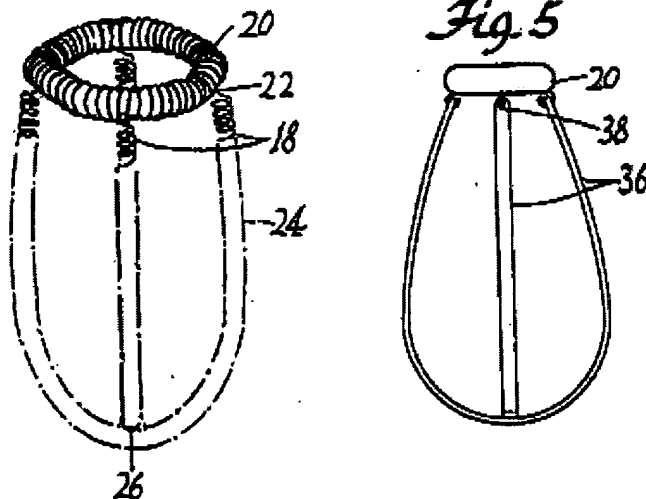
6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 7-13, 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKenzie (U.S. 5,468,383) in view of Sierdorfer.



McKenzie teaches all the limitations of the aforementioned claims except the limitation of horizontal ribs. However, as explained above, such is taught by Sierdorfer. It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have

Art Unit: 1723

the horizontal ribs of Sierdorfer in the invention of McKenzie, since Sierdorfer teaches the benefit of securing longitudinal ribs, wherein the ribs are configured to support a filter on the outer surface thereof and to communicate with a suction hose. Upon modification, 6b would be the demarcation between the first and second sections.

Although 6b is considered to be a plurality of linearly aligned transverse ribs, having another 6b thereabove would be within ordinary skill since it has been decided that duplication of parts is within ordinary skill, see *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960). Additional ribs would have the benefit of additional support for the longitudinal ribs, wherein the rib closest to the suction pipe would be the demarcation between the sections.

Response to Arguments

8. Applicant's arguments with respect to the claims have been considered but are moot in view of the new grounds of rejection necessitated by amendment.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

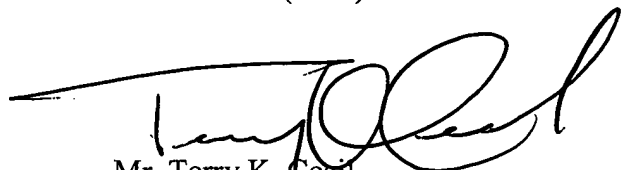
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the

Art Unit: 1723

mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Contact Information:

- Examiner Mr. Terry K. Cecil can be reached at (571) 272-1138 at the Carlisle campus in Alexandria, Virginia for any inquiries concerning this communication or earlier communications from the examiner. Note that the examiner is on the increased flextime schedule but can normally be found in the office during the hours of 8:30a to 4:30p, on at least four days during the week M-F.
- Wanda Walker, the examiner's supervisor, can be reached at (571) 272-1151 if attempts to reach the examiner are unsuccessful.
- The Fax number for this art unit for official faxes is (571) 273-8300.
- Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mr. Terry K. Cecil
Primary Examiner
Art Unit 1723